

Application No. 09/735401
Page 6

Amendment
Attorney Docket No. S63.2N-11056-US03

Remarks

This Amendment is in response to the Office Action dated October 14, 2005.

Claims 61, 64, 65, 68-82, 86, and 87 were rejected under 35 USC 102(e) in light of US Patent 5,562,729 to Purdy et al. In the alternative, claims 61, 64, 65, 68-82, 86, and 87 were rejected under 35 USC 103(a) in light of US Patent 5,562,729 to Purdy et al.

Applicant disagrees with this rejection. Nevertheless, in order to advance the prosecution of this case, Applicant has amended claims 61 and 86 without prejudice or disclaimer. Amended claims 61 and 86 respectively recite a prosthesis/stent having "a plurality of axially spaced serpentine bands, each serpentine band having a proximal and distal end and consisting of a plurality of interconnected struts, serpentine bands which are adjacent one another connected one to the other". Purdy neither teaches nor suggests this limitation. Thus, for at least this reason, Purdy does not teach the limitations of claims 61 or 86. Applicant respectfully requests that the 102(e) rejection and the alternative 103(a) rejection of claims 61 and 86 and claims 64, 69-75, and 87 dependent thereof be withdrawn.

Regarding claim 65, the Office Action points to the open spaces between the struts of Purdy as anticipatory of this claim. Applicant disagrees with the rejection. Nevertheless in order to expedite allowance of this application, claim 65 has been amended to recite "the struts disposed about a multiplicity of through-holes in the wall such that the through holes are surrounded by struts". The open spaces of Purdy are not surrounded by struts nor does Purdy suggest the desirability of this limitation. Thus, Purdy neither teaches nor suggests the limitations of claim 65. Applicant respectfully requests that the 102(e) rejection and the alternative 103(a) rejection of independent claim 65 and claims 68 and 76-82 dependent thereof

Application No. 09/735401
Page 7

Amendment
Attorney Docket No. S63.2N-11056-US03

be withdrawn.

For at least the reasons listed above, independent claims 61, 65, 86, and those claims dependent thereon are in condition for allowance. Applicant requests that the 102(e) rejection and the alternative 103(a) rejection be withdrawn.

Claims 86 and 88 was rejected under 35 USC 103(a) as being unpatentable over US Patent 6,582,462 to Anderson et al in view of US Patent 5,449,384 to Johnson.

Applicant disagrees with the rejection. Nevertheless, to forward prosecution, claim 86 has been amended without prejudice or disclaimer to recite “the struts having a **greater width than thickness**, portions of the struts having a cross-section which includes a necked region between end regions, the necked region having a **thickness substantially less than the thickness of the end regions**”.

As claimed, there is no teaching or suggestion in Johnson or Anderson that the struts having a **greater width than thickness** while at the same time having a necked region with a **thickness** substantially less than the thickness of the end regions. Depending on the orientation, the thickness of the “struts” of Johnson either 1) have a necked region and a greater thickness than width (contrary to the language of claim 86) or 2) has a width greater than thickness but no necked portion (again contrary to the language of claim 86). For at least this reason claim 86 is not obvious in light of the combination of Johnson and Anderson.

Claim 88 has been amended to recite “the thickness of the struts are characterized by being smaller than the width of the struts and by having thicker portions with a narrower portion therebetween”. This claim recitation is neither taught nor suggested in Johnson or Anderson. As similarly described above Johnson does not teach a thickness 1) being smaller than the width of the struts and 2) having thicker portions with a narrower portion therebetween.

Application No. 09/735401
Page 8

Amendment
Attorney Docket No. S63.2N-11056-US03

For at least this reason claim 88 is not obvious in light of the combination of Johnson and Anderson.

For at least these reasons, claims 86, 87, and 88 are in condition for allowance.

Withdrawal of the 103(a) rejection is respectfully requested.

Claim 85 was rejected under 35 USC 102(b) as being anticipated by US Patent 4,950,227 to Savin et al. Applicant disagrees with the rejection.

Nevertheless, in order to expedite allowance of this application claim 85 has been amended to recite the "the thickness of the wall tapering from the midpoint to each end of the stent at a substantially constant slope in relation to the longitudinal axis". This feature is not disclosed in Savin. Figure 5 of Savin merely shows a stent during expansion. Any taper that is present is due to the ends of the stent being prevented from expanding; there is no teaching that the thickness of the stent wall tapers in any way.

For at least these reasons the Savin reference does not anticipate. Withdrawal of the rejection is respectfully requested.

Application No. 09/735401
Page 9

Amendment
Attorney Docket No. S63.2N-11056-US03

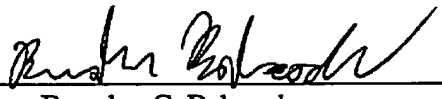
CONCLUSION

In view of the foregoing it is believed that the present application, with pending claims 61, 64, 65, and 68-88, is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: January 11, 2006

By: 
Brendan C. Babcock
Registration No.: 50705

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

f:\wpwork\bcbl11056us03_amd_20050110.doc